

ARKANSAS SUPREME COURT

No. CR 06-150

NOT DESIGNATED FOR PUBLICATION

NARVELL JOHNSON III
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered October 5, 2006

PRO SE MOTION FOR
RECONSIDERATION OF DISMISSAL
OF APPEAL [CIRCUIT COURT OF
PULASKI COUNTY, CR 2003-3293,
HON. TIMOTHY DAVIS FOX, JUDGE]

MOTION DENIED

PER CURIAM

A jury found appellant Narvell Johnson III guilty of aggravated robbery and theft of property and returned an aggregate sentence of 240 months' imprisonment on the charges. The Arkansas Court of Appeals affirmed in an unpublished opinion. *Johnson v. State*, CACR 04-1352 (Ark. App. August 31, 2005). Appellant filed a *pro se* petition for postconviction relief under Ark. R. Crim. P. 37.1, and the trial court dismissed the petition as untimely. Appellant appealed that order, but this court dismissed his appeal upon determining that the petition for postconviction relief was indeed untimely. *Johnson v. State*, CR 06-150 (Ark. March 23, 2006) (*per curiam*).

Now before us is appellant's *pro se* motion requesting reconsideration of that decision, in which he provides evidence in the form of receipts that he asserts shows the petition was mailed in a timely manner. Appellant is apparently arguing that we should adopt the prison mailbox rule recognized in some courts, which provides that a *pro se* inmate files his or her petition at the time the petition is placed in the hands of prison officials for mailing. This court has previously declined

to adopt the mailbox rule. *See Hamel v. State*, 338 Ark. 769, 1 S.W.3d 434 (1999). An item tendered to a court is considered tendered on the date it is received and file marked by the clerk, not on the date it may have been placed in the mail.

As noted in our previous opinion, the file mark on appellant's petition indicated that it was filed after the due date, and the petition was therefore not filed in a timely manner as appellant now asserts. Appellant has stated no reason to revisit our previous decision on this issue, and, therefore, we deny his motion for reconsideration.

Motion denied.